

REMARKS

Claims 1-4 have been rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard the invention. This rejection is respectfully traversed.

As the Examiner will note, claim 1 has been amended to eliminate the trademark "Velcro" and accordingly, it is believed this rejection has been eliminated.

Claim 1 has been rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Robinson, U.S. Patent 5,253,364 in view of Brown et al., U.S. Patent 4,630,317 and Knepp, U.S. Patent 6,056,400. Also, claims 2-4 have been rejected by the Examiner under 35 U.S.C. § 103 as being unpatentable over Robinson in view of Brown et al. and Knepp as applied to claim 1. These rejections are respectfully traversed.

The present invention is directed to a cap which contains a sun visor pivotally connected to the cap wherein the sun visor is made of synthetic resinous film of a flexible semi-transparent material which protects the face and eyes of the wearer from ultraviolet rays. Advantageously, the hat can also be provided with a sweatband which is removably fixed to the inside of the cap as well as an adjustable band for adjusting the cap to the head size of the wearer.

The Robinson reference shows a baseball-style cap having a rotatable bill. The bill is rotatable about a generally horizontal rotational axis, and is repositionable along the outer periphery of the crown portion of the cap from a forward eye-shading position to a rearwardly-directed neck-shading position. However, the rotatable bill of the Robinson reference is not semi-transparent and thus is incapable of shading the face and eyes of the user from ultraviolet rays. The present invention discloses a visor cap including a crown portion, and a sun visor

made of a synthetic resin film of a flexible and semi-transparent ultraviolet material to shade the face of a user from ultraviolet rays without impeding the visual field, and coupled to the crown of a cap to freely pivot to predetermine angles by using a pair of pivotal coupling units provided at both side ends of the crown portion of the cap. The present invention also discloses the use of a sweatband configured to absorb sweat and formed of an elastic material to allow the cap portion in direct contact with the forehead of the user to be soft, and a rear adjustable band attached to a back portion of the cap to be adjusted according to the size of the head of the user.

The Examiner, in paragraph 5 of the Office Action letter, recognizes that the Robinson patent lacks a teaching of the particular type of visor utilized in the present invention as well as a sweatband which can be attached to the supporting structure of the cap. To fill this deficiency, the Examiner relies upon the Knepp patent which discloses protective eyewear with a transparency tinted visor. The protective eyewear is effective for maximizing protection against harmful radiation while minimizing obstruction of a wearer's visibility. Thus, in referring to Figure 1, the transparent tinted visor 19 is utilized to further protect the eyes and the lens 3 from ultraviolet radiation. The Examiner thus apparently concludes that in view of the teachings of the Knepp patent, it would be obvious to one skilled in the art to modify the bill 12 of the cap of the Robinson patent by converting the bill to a transparent tinted visor such as element 19 of the Knepp patent, if it is desired to protect the eyes of the wearer of the cap from ultraviolet radiation. The Examiner then further relies upon the Brown et al. patent to show that it is old in the art to utilize a sweatband in various cap constructions for absorbing moisture generated by the user.

In combining references under 35 U.S.C. § 103(a), there must be some suggestion that either the primary or secondary references as to why it would be obvious to one skilled in the art to modify the teachings of the primary reference in the manner suggested in the secondary reference. In the present situation, there is no suggestion in the Robinson patent that the bill 12 might be made of a transparent material for the purpose of blocking ultraviolet rays. The only apparent similarity between the Robinson patent and the present invention is the fact that the bill 12 can be rotated to correspond to fashion, to protect the wearer's neck from prolonged exposure to the sun, and the light, while always ensuring that the cap emblem faces in the forward direction. Thus, in the invention of the Robinson patent, the wearer of the cap is granted a greater freedom of choice with respect to wearing the cap. There appears to be no suggestion in the Robinson patent of a desire to shield the face of the wearer from ultraviolet light. With this in mind, one skilled in the art would not be inclined to look to the teachings of the Knepp patent with the desire to provide some sort of tinted transparency in the bill of the cap to protect the face and the eyes of the wearer. This is particularly true since the Knepp patent is not concerned with wearing apparel for the head, that is a cap, but rather to sunglass which generally have, as their main function, shielding the eyes from ultraviolet light. Thus, the Knepp patent fails to suggest or teach the use of a sun visor coupled to the crown of a cap to freely pivot to predetermined angles by using a pair of pivotal coupling units provided at both side ends of the cap, as defined by the present invention. Since the Robinson patent is not concerned with shielding the eyes of the wearer from ultraviolet light, it would not be obvious, as suggested by the Examiner, to modify the teachings of the Robinson patent by constructing the bill portion 12 of the hat of the Robinson patent with a tinted transparent flexible material. Furthermore, it is

believed that in the present invention, the bill of the cap can be adjusted due to its pivotable attachment to the crown of the cap to best protect the eyes whereas in the case of the Knepp patent, the transparent tinted visor 19 does not pivot, but rather extends in a straight manner from the top of the glasses in a fixed position with the only adjustment being the length "d" of element 19 and the small angle α which can provide some small amount of adjustment for the visor. Thus, it is believed that the only way that the Knepp patent can be combined with the Robinson patent is to completely reconstruct the teachings of the respective references in view of the Applicants' own disclosure.

The fact that the Brown et al. patent shows a sweatband provided in a cap to absorb moisture certainly does not, in any manner, fill the deficiencies in the primary references already pointed out hereinabove. Accordingly, the further reliance upon the Brown et al. patent cannot positively suggest the present invention.

In connection with the Examiner's rejection of claims 2-4 under 35 U.S.C. § 103, since these claims are dependent from claim 1, and since claim 1 is considered to be patentably distinguishable over the references relied upon by the Examiner, for the same reasons, it is believed that claims 2-4 are also allowable over the prior art relied upon by the Examiner.

In addition, claim 5 has been added to the present application, claim 5 merely concentrating on one of the more important features of the present invention, that is, a visor cap, wherein the visor is made of a synthetic resinous film of a flexible semi-transparent ultraviolet material.

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims of the present application is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

If the Examiner has any questions or comments, please contact the undersigned at the offices of Birch, Stewart, Kolasch & Birch, LLP.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 02-2448, under Order No. 2669-0134P from which the undersigned is authorized to draw.

Dated: November 2, 2005

Respectfully submitted,

By 

Joseph A. Kolasch

Registration No.: 22,463

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant